

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

LEON PACKER,

Plaintiff,

vs.

PATENAUDE & FELIX, APC,

Defendant.

) Case No. _____

)

) **COMPLAINT**

)

)

)

) Jury Trial Demanded

)

)

)

NATURE OF ACTION

1. This is an action brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. Venue is proper before this Court pursuant to 28 U.S.C. §1391(b), where acts and transactions giving rise to Plaintiff's action occurred in this State

COMPLAINT-1

WEISBERG & MEYERS, LLC
3877 N. Deer Lake Rd.
Loon Lake ,WA 99148
509-232-1882
866-565-1327 facsimile
jrobbins@AttorneysForConsumers.com

1 and this District, where Plaintiff resides in this district, and where Defendant
2 transacts business in this State and this District.
3

4 **PARTIES**

5 4. Plaintiff, Leon Packer (“Plaintiff”), is a natural person who at all
6 relevant times resided in the State of Washington, County of Snohomish, and City
7 of Everett.
8

9 5. Plaintiff is obligated, or allegedly obligated, to pay a debt owed or
10 due, or asserted to be owed or due, Patenaude & Felix, APC – and once owed or
11 due, or asserted to be owed or due, Bank of America / FIA Card Services, N.A.
12

13 6. Plaintiff’s obligation, or alleged obligation, owed or due, or asserted
14 to be owed or due Patenaude & Felix, APC, arises from a transaction or
15 transactions in which the money, property, insurance, goods and/or services that
16 are the subject of the transaction(s) were incurred primarily for personal, family,
17 or household purposes (i.e., groceries and gasoline).
18

19 7. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).
20

21 8. Defendant, Patenaude & Felix, APC (“Defendant”) is a for-profit
22 professional law corporation, with its principal office located at 4545 Murphy
23 Canyon Rd., 3rd Floor, San Diego, CA, 92123, and with an office with at least
24 one of its attorneys situated at 4727 44 Ave. SW, Suite 103, Seattle, WA, 98116.
25
26
27

1 Defendant may be served by and through its registered agent, Raymond A.
2 Patenaude, 4545 Murphy Canyon Rd., 3rd Floor, San Diego, CA, 92123.
3

4 9. Defendant is an entity which at all relevant times was engaged, by
5 use of the mails and telephone, in the business of attempting to collect a “debt”
6 from Plaintiff, as defined by 15 U.S.C. §1692a(5).
7

8 10. Defendant uses instrumentalities of interstate commerce or the mails
9 in a business the principal purpose of which is the collection of any debts, and/or
10 regularly collects or attempts to collect, directly or indirectly, debts owed or due,
11 or asserted to be owed or due another.
12

13
14 11. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).
15

16 **FACTUAL ALLEGATIONS**

17 12. In connection with the collection of an alleged debt, Defendant sent
18 Plaintiff written communication dated February 17, 2011 which stated in relevant
19 part(s) as follows:
20

21 Please be advised that the above-referenced debt has been assigned to
22 this firm to initiate collection efforts regarding your delinquent
23 outstanding balance to our client.

24 In the event that legal action is pursued and judgment is ultimately
25 obtained against you, the judgment may include all court costs,
26 prejudgment interest and attorney’s fees in addition to the principal
27 amount currently owed. If you wish to eliminate further collection
28 action, please contact us at (800) 832-7675.

1 Unless you notify this office within THIRTY (30) days of receiving
2 this notice that you dispute the validity of this debt, or any portion
3 thereof, this office will assume this debt is valid.

4 If you notify this office in writing within THIRTY (30) days of
5 receiving this notice that this debt, or any portion thereof, is disputed,
6 this office will obtain verification of the debt, or a copy of a
7 judgment against you, and mail you a copy of such verification or
8 judgment. Further, if you make a written request upon this office
9 within THIRTY (30) days of receiving this notice, this office will
provide you with the name and address of the original creditor, if
different from the current creditor.

10 This is an attempt to collect a debt and any information obtained will
11 be used for that purpose.

12 Very truly yours,

13
14 LAW OFFICE OF PATENAUDE & FELIX

15 [facsimile signature of Richard D. Drowley, Esq.]
16 RICHARD D. DROWLEY, ESQ.

17
18 See Defendant's February 17, 2011 correspondence, a true and correct copy of
19 which is attached hereto as Exhibit "A".
20

21 13. Defendant's actions constitute conduct highly offensive to a
22 reasonable person.
23

24 **COUNT I**
25 **VIOLATION OF 15 U.S.C. § 1692e(3)**

26 14. Plaintiff repeats and re-alleges each and every allegation contained
27 above.
28

COMPLAINT-4

WEISBERG & MEYERS, LLC
3877 N. Deer Lake Rd.
Loon Lake ,WA 99148
509-232-1882
866-565-1327 facsimile
jrobbins@AttorneysForConsumers.com

1 15. 15 U.S.C. § 1692e(3) prohibits “[t]he false representation or
2 implication that any individual is an attorney or that any communication is from
3 an attorney.” 15 U.S.C. § 1692e(3).
4

5 16. As propounded, Defendant’s communication represented to Plaintiff
6 that an attorney had reviewed Plaintiff’s file and had reviewed the letter before an
7 attorney’s facsimile signature block was affixed to the letter.
8

9 17. As propounded, Defendant’s communication implied that the
10 attorney whose facsimile signature block was affixed to the letter reached a
11 considered, professional judgment that Plaintiff was delinquent and that Plaintiff
12 was a candidate for the legal action threatened in the letter.
13
14

15 18. Defendant falsely represented or implied that the February 17, 2011
16 letter was from an attorney when Defendant sent its mass-produced letter bearing
17 attorneys’ letterhead, with attorney’s signature block, creating a deceptive
18 impression that an attorney had involvement where there was none, as no attorney
19 had reviewed the Plaintiff’s file, in violation of the FDCPA at 15 U.S.C. §
20 1692e(3).
21
22

23 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
24

- 25 a) Adjudging that Defendant violated the FDCPA;
26
27 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
28

1 in the amount of \$1,000.00;

2 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;

3
4 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
5 this action;

6
7 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
8 may be allowed under the law;

9
10 f) Awarding such other and further relief as the Court may deem just
11 and proper.

12 **COUNT II**
13 **VIOLATION OF 15 U.S.C. § 1692g(b)**

14 19. Plaintiff repeats and re-alleges each and every allegation contained
15 in paragraphs 1 through 35, above.

16
17 20. As propounded, Defendant's communication threatened to "initiate"
18 further collection activity during the initial thirty (30) day dispute period were
19 Plaintiff to fail to contact Defendant.
20

21
22 21. As propounded, Defendant's communication also threatened
23 Plaintiff with the imposition of court costs and attorney's fees, which Defendant
24 stated could be eliminated if Plaintiff were to "contact us at (800) 832-7675."
25 Taken together with Defendant's use of the word "initiate" in the preceding
26 sentence, these threats would be construed by a least sophisticated consumer to
27

1 mean that litigation was imminent.

2
3 22. Defendant violated 15 U.S.C. § 1692g(b) by threatening to initiate
4 further collection efforts to take place during the initial thirty (30) day dispute
5 period, and by threatening the imposition of future court costs and attorney's fees,
6 which served to overshadow, contradict, obscure, and obfuscate the notices
7 required pursuant to 15 U.S.C. § 1692g(a), *et seq.*
8

9 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
10

- 11 a) Adjudging that Defendant violated the FDCPA;
12
13 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
14 in the amount of \$1,000.00;
15
16 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
17
18 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
19 this action;
20
21 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
22 may be allowed under the law;
23
24 f) Awarding such other and further relief as the Court may deem just
25 and proper.
26
27
28

TRIAL BY JURY

Plaintiff is entitled to and hereby demands a trial by jury.

Respectfully submitted this 6th day of January, 2012.

s/Jon N. Robbins

Jon N. Robbins

WEISBERG & MEYERS, LLC

Attorney for Plaintiff